

EXHIBIT WW.1

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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In Re:

Case No:

RESIDENTIAL CAPITAL, LLC, et. al.,

12-12020 (MG)

Debtors.

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DEPOSITION OF FRANK SILLMAN

New York, New York

November 20, 2012

9:35 a.m.

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 27687

	118		120
1	FRANK SILLMAN	1	FRANK SILLMAN
2	said it in the paragraph.	2	or any other legal arguments as part of
3	Q. So is it fair to say you are not	3	that process. So it's that work and the
4	opining as to whether any of the claims	4	results of that work that's incorporated
5	have legal merit?	5	in my work, in my declaration.
6	A. Whether they would be able to	6	Q. I understand you are drawing
7	prove breaches of reps and warrants, yeah,	7	inferences from the debtors' put back
8	under the governing agreements.	8	history with the GSEs, among other things?
9	Q. Or prove the requirements of put	9	A. Correct.
10	back?	10	Q. So I just want to be clear, am I
11	A. Correct.	11	correct you haven't looked at any one loan
12	Q. And by the way, you don't claim	12	within the pool that's being settled to
13	to have any expertise in that issue, do	13	try to reach a view or express an opinion
14	you?	14	as to whether that loan actually breaches
15	MR. RAINS: Objection, vague and	15	any reps and warranties?
16	ambiguous.	16	A. We have not completed our loan
17	A. Which area is that?	17	level review work. And I'm relying on the
18	Q. Whether put back is legally	18	thousands of loans that went through the
19	required?	19	debtors' repurchase process as the basis
20	A. I didn't render any legal -- I	20	for my original declaration.
21	don't have any legal training and didn't	21	Q. So I think I'm hearing the
22	provide any legal recommendations under	22	answer to my question but I just want to
23	this work.	23	be clear. In your June 11 declaration you
24	Q. And you don't claim to have the	24	are not expressing any opinion as to
25	expertise needed to provide legal	25	whether any particular loan breaches any
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1	FRANK SILLMAN	1	FRANK SILLMAN
2	opinions, right?	2	reps and warranties?
3	A. Correct.	3	MR. RAINS: Objection. Vague
4	Q. And you are not expressing a	4	and ambiguous. Asked and answered.
5	view, I take it, as to whether any of the	5	A. I utilized the repurchase work
6	debtors' legal defenses have merit?	6	the debtor did with the GSEs to form the
7	A. Correct.	7	basis for my original declaration.
8	Q. And you are also not expressing	8	Q. And in reaching the conclusions
9	a view as to whether the facts relating to	9	in your initial declaration you didn't
10	any of the loans in the pool being settled	10	look at any individual loan file in the
11	would legally warrant put back?	11	pool that's being settled?
12	A. Yeah. I'm not making a legal	12	A. I relied on the thousands of
13	assessment.	13	loans that were reviewed by the debtor as
14	Q. Am I correct you've made no	14	part of their process prelitigation.
15	attempt to determine the, what portion of	15	Q. With respect, Mr. Sillman, I
16	the loans in the pool actually breach reps	16	don't think you answered my question.
17	and warranties?	17	MR. BENTLEY: Let me ask the
18	A. The work that I'm depending on	18	reporter to read it back.
19	or relying on is the repurchased, GSE	19	MR. RAINS: I think you answered
20	repurchase rate work that was done between	20	the question. It's been asked and
21	Fannie, Freddie and the debtor where they	21	answered.
22	reviewed thousands of loans over a number	22	MR. BENTLEY: You know, Darryl,
23	of years and looked at the actual loan by	23	it's a yes or no question and I got a
24	loan file review and availed themselves to	24	nonanswer.
25	the defenses of the governing agreements	25	Read it back, please.

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1	FRANK SILLMAN	1	FRANK SILLMAN
2	(Record read.)	2	work.
3	MR. RAINS: Same objections.	3	Q. Did that involve looking at any loan files?
4	A. I relied on the GSE repurchase	4	A. It revolved relying on the loan
5	work that the debtor did with Fannie and	5	file reviews that the debtor performed.
6	Freddie.	6	Q. Is there a reason you are resisting answering a simple question?
7	Q. To date have you looked at any loan file for any of the loans within the pool that's being settled?	7	MR. RAINS: Objection.
8	A. We are in the process of	8	Argumentative. Asked and answered.
9	reviewing the loan files.	9	MR. BENTLEY: It's not asked and
10	Q. Have you yet looked at any loan files?	10	answered for Christ's sake, Darryl.
11	MR. RAINS: You mean him	11	Read it back.
12	personally or Fortace?	12	MR. RAINS: Of course it has.
13	Q. Let's break it into pieces.	13	It's been asked 15 times and --
14	Have you personally looked at any loan file?	14	MR. BENTLEY: Is the answer no?
15	A. I have not looked at the loan	15	Because I sure can't tell what the
16	files.	16	answer is.
17	Q. Prior to your signing your June 11 declaration, did anybody at Fortace look at any of the loan files for the loans being settled?	17	MR. RAINS: I think his answer
18	A. I relied on, we relied on, the	18	is very clear.
19		19	MR. BENTLEY: The answer is he
20		20	did something else, it's not whether
21		21	he did this or not.
22		22	MR. RAINS: That's his answer.
23		23	You don't like his answer but it's his
24		24	
25		25	
	123		125
1	FRANK SILLMAN	1	FRANK SILLMAN
2	work that the debtor did with the GSE	2	answer.
3	repurchases in forming the assumptions and	3	MR. BENTLEY: I'm fine with his
4	conclusions in my original declaration.	4	answer, he just hasn't answered my
5	Q. So that's a no?	5	question.
6	A. I relied on --	6	Can you read it back, please.
7	MR. BENTLEY: Read back my	7	MR. RAINS: Let's do this, let's
8	question.	8	take a quick break.
9	Q. It's a very simple factual	9	MR. BENTLEY: You know what, I
10	question. I'm not asking you what you	10	want an answer to my question before
11	relied on. I'm asking you whether you	11	you speak --
12	looked at any loan files?	12	MR. RAINS: I'm going to talk to
13	MR. BENTLEY: Read it back,	13	him about his answer to your question.
14	please.	14	MR. BENTLEY: I object. You are
15	(Record read.)	15	not supposed to talk to the witness
16	MR. RAINS: Objection, vague and	16	while a question is pending.
17	ambiguous. Asked and answered.	17	(Whereupon, there is a recess in
18	A. I relied on the work that was	18	the proceedings.)
19	done by the debtor as part of their GSE	19	MR. RAINS: I think we have
20	repurchase for the conclusions and	20	succeeded in clearing up some of the
21	assumptions made in my original	21	ambiguities and confusion caused by
22	declaration.	22	your question. Why don't you put the
23	Q. And you didn't look at any loan	23	question to him again.
24	files?	24	Q. I know it's very confusing but
25	A. I relied on the GSE repurchase	25	I'll state it again. In connection with

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1	FRANK SILLMAN	1 FRANK SILLMAN
2	forming the opinions expressed in your	2 files that are contained within the 392
3	June 11 declaration, did you or any of	3 trusts.
4	your colleagues look at any of the files	4 Q. And when you say the company's
5	for the loans in the pool being settled.	5 work, are you referring to anything other
6	A. For the, my original declaration	6 than the work the company did prepetition
7	I relied on the work that was done by	7 in connection with its prepetition put
8	ResCap and the repurchase activity. We	8 back negotiations?
9	are now looking at loan files. We are	9 A. Yeah. It was prepetition work.
10	currently looking at loan files.	10 Q. In connection with -- done by
11	Q. So let's just unpack what you	11 the debtor in connection with its
12	just said. You relied on the work that	12 prepetition put back experience?
13	was done by ResCap. What work are you	13 A. Yes.
14	referring to?	14 Q. And no other review of loan
15	A. To GSE and private label	15 files went into your, the conclusions
16	repurchase activity work ResCap did.	16 expressed in your June 11 declaration?
17	Q. Understood. But was that as to	17 A. That's right.
18	any of the loans that are in this pool	18 Q. Okay. We are there. We got an
19	that's being settled?	19 answer. Thank you. Let's move on.
20	A. There may be in the private	20 A. I would say no additional loan
21	label securities work loans that are	21 work.
22	included in this settlement. The vast	22 MR. BENTLEY: I'm about to
23	majority of the loans were related to	23 change topics. If people want to take
24	their GSE originations.	24 a break, this is fine or we can keep
25	Q. And none of the GSE deals	25 going.
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1	FRANK SILLMAN	1 FRANK SILLMAN
2	overlap in any way with this settlement,	2 MR. RAINS: Let's take a break.
3	right?	3 Sounds good.
4	A. Correct.	4 (Luncheon recess taken at 12:09 p.m.)
5	Q. Were you relying, when you	5
6	prepared this report, on any work that RFC	6 ***
7	had done in looking at the loans that are	7
8	part of this settlement?	8 A F T E R N O O N S E S S I O N
9	A. Yes. We did review some	9 (Time noted: 1:22 p.m.)
10	information regarding their private label	10 F R A N K S I L L M A N , resumed and
11	securitization repurchase work. What we	11 testified as follows:
12	found, I think there's an exhibit, that	12 EXAMINATION BY (Cont'd.)
13	the vast majority of those repurchase	13 MR. BENTLEY:
14	demands were unresolved.	14 Q. Mr. Sillman, Good afternoon.
15	Q. So I'm going to return to that.	15 A. Good afternoon.
16	I know what you are referring to. Putting	16 Q. Let's go back to paragraph 5 of
17	aside any loan reviews that RFC may have	17 your initial declaration. And I'm going
18	done in connection with its prepetition	18 to ask you about the carryover sentence
19	put back experience, did you or any of	19 that starts at the bottom of page 3 and
20	your colleagues look at any loan files in	20 carries over to page 4. So if you can
21	connection with the work that went into	21 take a moment and read that, and tell me
22	your June 11 report?	22 when you are ready.
23	A. We relied on the company's work	23 A. Okay.
24	for the information in the original	24 Q. Does this sentence list all of
25	declaration and we are now looking at loan	25 the data and agreements that you reviewed

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1	FRANK SILLMAN	1	FRANK SILLMAN
2	Q. Well, look at paragraph 59 of	2	claim for 8.7 billion. So I took into
3	your declaration. The first sentence	3	consideration the 1.3 billion and the fact
4	states, "The agree rate is the percentage	4	that the trustees had also negotiated an
5	of demands issued by the trustee that the	5	allowed claim of 8.7. So I had to take
6	seller agrees to repurchase or make	6	into consideration the fact that there was
7	whole." Correct?	7	a claim.
8	A. Yes.	8	Q. So one of the things you took
9	Q. So the agree rate for the	9	into consideration in forming your
10	debtors shown on Exhibit 7 is just	10	conclusion was that the debtors had agreed
11	10.36 percent, correct?	11	to an aggregate settlement of
12	A. Yes.	12	\$8.7 billion?
13	Q. And the 64 percent would not be	13	A. We are talking about the PLS
14	unresolved in the sense you use -- sorry,	14	demand data. I could not ignore the fact
15	using the approach you take in your	15	that in addition to the 1.3 billion in
16	declaration the 64.76 percent would be the	16	demands there was also a proposed
17	reject rate, the opposite of the agree	17	settlement of 8.7 billion. So it was a
18	rate, correct?	18	factor in the development of my
19	A. This --	19	declaration.
20	MS. PATRICK: Objection to form.	20	Q. Let's go back to paragraph 5 of
21	A. The information that we utilized	21	your declaration.
22	is the loans all had a determination as	22	MS. PATRICK: 5?
23	we -- as they made their way through the	23	MR. BENTLEY: Correct.
24	process. And so the disagree rate would	24	MR. RAINS: I'm sorry, where?
25	not be it. It would be the canceled and	25	MS. PATRICK: 5.
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1	FRANK SILLMAN	1	FRANK SILLMAN
2	rescinded rate would be the opposite to	2	MR. BENTLEY: 5.
3	the agree rate. So they all have to be	3	MR. RAINS: That's so
4	resolved. So it's not the disagree. It's	4	demoralizing. We made it up to 50 --
5	the cancel and rescinded or agree.	5	MR. BENTLEY: Darryl, I'm going
6	Q. Okay. Let's move on. And I	6	doing it just to demoralize you.
7	don't think I got an answer to my	7	MR. RAINS: We started at 5 over
8	question. In forming your conclusions did	8	an hour ago and we are still stuck in
9	you attribute any significance to the fact	9	5.
10	that the debtors had suffered -- sorry,	10	MR. BENTLEY: I think that means
11	the trusts whose loans are being settled	11	we are going to go for days.
12	have suffered \$30 billion in losses but	12	MR. BENNETT: He likes 5.
13	during the period shown on Exhibit 7 the	13	MR. BENTLEY: Don't lose hope,
14	debtors received put back demands only	14	Darryl.
15	with respect to loans with an original	15	Q. I want to focus you on the last
16	principal balance of roughly 1.37 billion,	16	sentence and specifically the portion that
17	did you give any significance to those	17	says "I utilized assumptions and developed
18	facts?	18	my own models based on my own experience
19	MR. RAINS: Objection, compound.	19	and industry data where available."
20	Vague and ambiguous.	20	So your reference to your own
21	A. It was a factor. This takes it	21	experience, the way you used your own
22	through demands that were received by the	22	experience in developing your models is
23	debtor through May 2012, at the same time	23	described later in this declaration; is
24	they entered into a settlement agreement	24	that right?
25	agreeing to -- agreeing to an allowed	25	A. Yes.